

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KELVIN HOWELL,	:	
	:	
Plaintiff,	:	
	:	22-CV-7262 (VSB)
-against-	:	
	:	<u>ORDER</u>
CITY OF NEW YORK and NEW YORK	:	
CITY DEPARTMENT OF CORRECTION,	:	
	:	
Defendants.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

Plaintiff initiated this action by filing a complaint on August 25, 2022. (Doc. 1.) Defendants answered on December 19, 2022. (Doc. 15.) On March 14, 2023, I entered a case management plan and scheduling order. (Doc. 28.) On May 15, 2023, counsel for Plaintiff filed a motion to withdraw as attorney, (Doc. 31), which I granted on May 16, 2023, (Doc. 35). In my Order granting the motion to withdraw, I ordered that the matter was to be stayed until Monday July 17, 2023 to allow Plaintiff time to retain new counsel. (*Id.*) Plaintiff was served a copy of this order via mail and electronic mail on May 16, 2023. (Docs. 36, 37.)

On July 19, 2023, I entered an order lifting the stay and stating that because new counsel had not entered an appearance, I would consider Plaintiff to be proceeding pro se. (Doc. 38.) I also directed the parties to file a status update and amended case management plan, if necessary, on or before August 8, 2023. (*Id.*) This Order was mailed to Plaintiff at the most recent address he had provided to his prior counsel, however on August 8, 2023, the Order was returned as not deliverable. Also on August 8, Defendants filed a letter stating that they have not received any communications from Plaintiff. (Doc. 39.) On August 10, 2023, I entered an Order stating that “if Plaintiff fails to prosecute this matter on or before September 8, 2023, the matter will be


dismissed pursuant to Fed. R. Civ. P. 41(b).” (Doc. 40.) On September 11, 2023, having not received any communication from Plaintiff or been made aware of any action taken to prosecute this matter, I dismissed the case for failure to prosecute pursuant to Rule 41(b).

On September 18, 2023, the Pro Se Office received a letter from Plaintiff and filed it on the docket. (Doc. 42.) In the letter, dated September 6, 2023, Plaintiff described the efforts taken secure counsel and requested a 90-day extension to do so. (*Id.*) I granted Plaintiff’s request, and reopened and stayed the case to allow Plaintiff an additional 90 days to secure an attorney. (Doc. 43.) I also directed Plaintiff to provide his contact information to the Pro Se Office, and directed the Clerk of Court to mail a copy of the Order to Plaintiff at the address provided on Doc 42:

Plaintiff has yet to secure counsel or to take any further action to prosecute this case. Accordingly, Plaintiff’s claims are dismissed without prejudice pursuant to Rule 41(b). The Clerk of Court is respectfully directed to terminate this action and to mail a copy of this Order to 4 Summit Hill Way Suite 415 Troy, NY 12180.

SO ORDERED.

Dated: December 27, 2023
New York, New York


VERNON S. BRODERICK
United States District Judge